

Serial No.: 10/541,823
Atty. Docket No.: P70681US0

REMARKS

In the Requirement for Restriction mailed October 16, 2008, the Examiner stated that the captioned application includes two groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1. The invention groups include Group I, claims 37, 39-47, 50 and 52-55, drawn to an ostomy appliance body-side member and method of using a body-side member; and Group II, claims 48, 49, 51 and 56-59, drawn to an ostomy appliance sealing member and method of using with an ostomy appliance body-side member. The Examiner stated that Groups I and II are subcombinations which are usable together and thus lack any common or corresponding technical features.

Applicants hereby elect Group I (claims 37, 39-47, 50 and 52-55) directed to an ostomy appliance body-side member and method of using a body-side member, with traverse.

As correctly noted by the Examiner, the present application is subject to unity of invention practice under 37 C.F.R. 1.499, and thus PCT Rules 13.1 and 13.2 are applicable. Unity of invention requires that the claims share one or more common special technical features that define the contribution which the invention, considered as a whole, makes over the prior art.

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The concept of subcombinations which are usable together as a basis for restriction is set forth in U.S. restriction practice (see MPEP 806.05(d)). However, this basis for restriction is not part of unity of invention practice. Rather, unity of invention practice requires that all of the claims share a single inventive concept. This requirement is satisfied by the claims of the present invention.

Specifically, the special technical feature set forth in each of the independent claims of the present invention is that of *a member for accommodating a stoma having balanced elastic and plastic properties, a first adhesive surface to adhere to the skin and a second surface provided with a hydrophobic adhesive layer thereon that is compatible with the first adhesive surface and that has an adhesive upper surface.* With this structural member, the hole surrounding the stoma can be enlarged by rolling up the inner rim of the member to form a torus, which can then be locked in the rolled up position by adhesion between the first adhesive surface and the adhesive upper surface of the hydrophobic adhesive layer on the second surface.

The hydrophobic adhesive layer on the second surface ensures that the torus will not unroll even when the first adhesive surface is exposed to moisture. This is important because the

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first adhesive surface is typically a moisture absorbing adhesive and therefore susceptible to losing its adhesive tack in the presence of moisture. Without the hydrophobic adhesive layer with its adhesive upper surface, the loss of adhesive tack experienced by the first adhesive surface would allow the torus to unroll, creating a risk of injury or constriction of the stoma. The addition of a second, hydrophobic, adhesive layer having an *adhesive upper surface* is not shown by the prior art. Accordingly, the stoma-accommodating member set forth in each of claims 37, 48, 50 and 51, *having a second surface provided with a hydrophobic adhesive layer that has an adhesive upper surface that is compatible with a first skin-adhering adhesive surface*, defines the contribution the present invention makes over the prior art and meets the requirement for unity of invention. Favorable reconsideration and withdrawal of the restriction requirement as between Groups I and II is therefore requested.

The Examiner also stated that the captioned application contains claims directed to more than one species of the generic invention and that the species are not so linked as to form a single general inventive concept under PCT Rule 13.1. The species are Figure 2, Figure 6 and Figure 7.

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Applicants hereby elect the species of Figure 2, with traverse. Claims 37, 39-42, 45-47, 50 and 52 are readable on the elected species.

Again, unity of invention practice requires that all of the claims share a single inventive concept, or special technical feature which defines the contribution which the invention considered as a whole makes over the prior art. All three species identified by the Examiner share the special technical feature set forth in the independent claims and already discussed above. More particularly, all three species include *a second layer of adhesive disposed on the second side of the stoma-accommodating member surrounding the stoma* (see page 15, lines 20-22, for Figure 2; page 16, lines 23-26, for Figure 6; and page 17, lines 17-19, for Figure 7). This inclusion of a second layer of adhesive, which is compatible with the first skin-adhering surface and which serves to "lock" the rolled-up torus in place, as discussed above, is part of the special technical feature that defines the contribution of the present invention over the prior art, thus satisfying the requirements for unity of invention. Favorable reconsideration and withdrawal of the election requirement is therefore requested.


With this amendment and the foregoing remarks, it is respectfully submitted that the present application is in condition

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for allowance. Should the Examiner have any questions or comments, the Examiner is cordially invited to telephone the undersigned attorney so that the present application can receive an early Notice of Allowance.

Respectfully submitted,

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